

OFFERED ON 2/11/2010

HOUSE No. 4491

The Commonwealth of Massachusetts

OFFERED BY:

Katherine Clark

Substituted by the House, on motion of Ms. Clark of Melrose, for a Bill relative to insurance benefits of organ transplant recipients (House, No. 4328). February 11, 2010.

NAME:

Katherine Clark

DISTRICT/ADDRESS:

32nd Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand Ten.

An Act relative to organ and tissue donation and transplantation.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the promotion of organ and tissue donation and certain MassHealth drug coverage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35E the following section:-

Section 35E ½. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Organ and Tissue Donor Registration Fund, to facilitate the registration of organ and tissue donors. The fund shall consist of all revenues received by the commonwealth: (1) under clauses (e) and (f) of subsection (c) of section 15 of chapter 17 and section 8D of chapter 90; and (2) from public and private sources as gifts, grants, and donations to further organ and tissue donor registration.

8 All revenues credited under this section shall remain in the Organ and Tissue Donor Registration Fund,
9 not subject to appropriation, for the registration of organ and tissue donors. The state treasurer shall not
10 deposit these revenues in or transfer these revenues to the General Fund or any other fund other than the
11 Organ and Tissue Donor Registration Fund.

12 The state treasurer shall deposit the fund in accordance with section 34 of chapter 29 in such manner as
13 will secure the highest interest available consistent with safety of the fund and with the requirement that
14 all amounts on deposit be available for immediate withdrawal at any time. The fund shall be expended
15 only for the purposes stated above at the direction of the commissioner of public health and any
16 unexpended balances shall be redeposited, as herein provided, for future use consistent with this section.

17 **SECTION 2.** Chapter 17 of the General Laws is hereby amended by striking out section 15, as appearing
18 in the 2008 Official Edition, and inserting in place thereof the following section:-

19 Section 15. (a) There shall be an advisory council on organ and tissue donations and transplants
20 consisting of the commissioner of public health, the president of the Massachusetts Medical Society, the
21 registrar of motor vehicles, the director of the division of organ transplants, a representative of a federally
22 designated organ procurement organization serving Massachusetts, and 10 persons experienced in the
23 field of organ and tissue donations or transplants to be appointed by the governor, at least 1 of whom shall
24 be a recipient of a donated organ or tissue, at least 1 of whom shall be a donor or a family member of a
25 donor, and at least 1 of whom shall be a doctor experienced in organ and tissue transplantation. The term
26 of all appointive members shall be 3 years and no such member shall be appointed to serve more than 2
27 consecutive terms. Upon the expiration of the term of any appointive member, a successor shall be
28 appointed in like manner for a term of 3 years.

29 (b) The governor shall annually designate the chairman of the council from among its members. The
30 council shall meet at least 4 times each year, and shall convene special meetings at the call of the
31 chairman, a majority of the members of the council, the commissioner of public health, or the director of

the division of organ transplants. The director of the division of organ transplants shall serve as executive secretary of the council. The council shall make an annual report to the governor, that shall include an account of all actions taken to further organ and tissue donation, and shall file a copy of the report with the state secretary, the clerk of the senate and the clerk of the house of representatives. Members of the council shall serve without compensation.

(c) The advisory council shall: (a) assist the commissioner of public health and the director of the division of organ transplants in coordinating the efforts of all public and private agencies within the commonwealth concerned with the donation and transplantation of human organs and tissues; (b) advise the commissioner and the director on policy and priorities of need in the commonwealth for a comprehensive program relative to organ and tissue donations and transplants; (c) review the annual plans, the proposed annual budget and the programs and services of the division and make recommendations to the commissioner, including approval, modification, or disapproval in regard thereto; (d) assist the direction of the division of organ transplants in developing strategies to increase organ and tissue donation by any means which the council and director may find effective, the funding for which shall come from the Organ and Tissue Donor Registration Fund established by section 35E ½ of chapter 10; (e) assist the director in establishing a website that includes general information on organ and tissue donation and a means by which the public may donate to the Organ and Tissue Donor Registration Fund; (f) facilitate and assist in establishment of a program by which employers match the donations of their employees to the Organ and Tissue Donor Registration Fund; and (g) establish numerical goals for increasing organ and tissue donation rates in the commonwealth, which shall include a baseline account of current organ and tissue donation rate, as well as periodic benchmarks for success.

SECTION 3. Section 6E of chapter 62 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The commissioner shall establish a means to facilitate voluntary registration by an individual who is filing a tax return under this chapter to register as an organ or tissue donor at the time of filing the return. The facilitation may include providing an electronic link or paper registration material in association with the preparation or filing of electronic or paper tax returns through which the individual may register as a donor with a federally designated organ procurement organization serving the commonwealth. Facilitation of such voluntary registration shall be permissible notwithstanding any confidentiality provisions under section 21 of chapter 62C or section 2 of chapter 66A, provided that the department's records identifying filers who register as organ or tissue donors shall not be public records.

SECTION 4. Subsection (b) of section 21 of chapter 62C, as so appearing, is hereby amended by adding the following clause:-

(24) the disclosure to the federally designated organ procurement organization serving the commonwealth of the name and any other pertinent information of an individual who has voluntarily registered as an organ or tissue donor under section 6E of chapter 62 solely for the purpose of identifying that individual as an organ donor.

SECTION 5. Section 8D of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 2, the following words:- motor vehicle registration or.

SECTION 6. Said section 8D of said chapter 90, as so appearing, is hereby further amended by inserting after the third paragraph the following paragraph:-

The registrar shall include on any online license renewal form an option for renewing person to donate, in addition to the fees for license renewal, 2 dollars or more to the Organ or Tissue Donor Registration Fund, established by section 35E ½ of chapter 10. The registrar shall annually report the total amount designated under this paragraph to the state treasurer who shall credit that amount to the Organ or Tissue Donor Registration Fund.

SECTION 7. Said section 8D of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:-

The registrar shall establish a means for a person licensed to operate a motor vehicle by the registrar or holding an identification card issued under section 8E to register as an organ or tissue donor through the registry's website. Such means shall be in addition to, and contain the same security provisions as, any online means of license or registration renewal.

SECTION 8. Section 12D of chapter 112 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

If a patient covered by MassHealth pursuant to chapter 118E is prescribed a narrow therapeutic index immunosuppressant drug for the treatment of an organ or tissue transplant, the pharmacist shall be required to notify the prescribing physician when any substitution to a narrow therapeutic index immunosuppressant drug for the treatment of an organ or tissue transplant is made. For the purposes of this paragraph, "narrow therapeutic index immunosuppressant drug" means an immunosuppressant drug for the treatment of an organ or tissue transplant that has a narrow range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration or pharmacodynamic monitoring.

SECTION 9. The state secretary shall study the feasibility of including a means of registration as an organ and tissue donor on voter registration forms. The study shall evaluate the potential impact an organ and tissue donor registration option on the number of organ and tissue donors in the commonwealth, the cost of implementing this option, and the logistical requirements of transferring organ and tissue donor registration data from those who register to vote at a city or town clerk's office to the registry of motor vehicles, either directly to the registry, directly to the federally-designated organ procurement organization for the commonwealth, or through the secretary's office. The secretary shall perform this study in consultation with the Massachusetts Town Clerks Association, Inc., the Massachusetts City Clerks Association, Inc., the operational services division, the registrar of motor vehicles, and the

102 federally-designated organ procurement organization for the commonwealth. The secretary shall report
103 findings to the clerks of the House of Representatives and the Senate not later than 6 months after the
104 effective of this section.

105 **SECTION 10.** Section 1 and sections 3 to 7, inclusive, shall take effect on January 1, 2011.